

S.B. CIVIL WRIT PETITION NO. 6406/2005.
(PIYUSH GADIYA & ORS. VS. STATE & ORS.)

DATE OF ORDER : 15.09.2006.

HON'BLE MR. GOVIND MATHUR, J.

Mr. R.S. Saluja for the petitioner/s.
Mr. B.L. Tiwari, Dy.GA, for the respondents.

Under a notification dated 19.08.2003, the Dy. Director (Secondary Education), Ajmer Zone, Azmer invited applications from the eligible and desirous candidates for the purpose of appointment to the post of Senior Teacher. The petitioners considering themselves eligible for appointment in the pursuant to the notification dated 19.08.2003 submitted applications to the authority competent. The candidatures of the petitioners were provisionally considered by the respondents, however, the same were rejected subsequently on the count that the Bachelors Degree in Education (Child Development) possessed by the petitioners was not treated equivalent to the Bachelors Degree in Education prescribed under the Rajasthan Education Subordinate Service Rules, 1971. Being aggrieved by it, this petition for writ is preferred seeking a direction for respondents to consider the candidatures of the petitioners and to appoint them as Senior Teacher, if any, person having less in merit to them is employed. The petitioners in para 4 of the writ petition have given names of certain persons to whom

appointment is given and they are said to be less meritorious than the petitioners.

A reply to the writ petition has been filed by the respondents stating therein that on the date the candidatures of the petitioner was to be considered the qualification possessed by them i.e. of Bachelors Degree in Education (Child Development), was not considered a qualification equivalent to Bachelors Degree i.e. required to hold the post of Senior Teacher under the Rules of 1971. It is also stated that the selection list prepared as a consequence to selection proceedings taken place in pursuant to the notification dated 19.08.2003 is not in currency, therefore, at this stage, the case of the petitioners for giving them appointment cannot be considered.

Heard counsel for the parties.

The qualification possessed by the petitioners i.e. of Bachelors Degree in Education (Child Development) was declared as a qualification equivalent to Bachelors Degree in Education by this Court in the case of Karan Singh Rathore & ors. vs. The State of Rajasthan & ors. much back in the year 2001. The judgment given in the aforesaid case was affirmed by the Division Bench of this Court in the case of The State of Rajasthan

& ors. vs. Karan Singh Rathore & 6 ors. reported in 2002(1) WLC page 445.

In view of it, the stand of the respondents that the qualification possessed by the petitioners was not considered equivalent on the day candidature of the petitioners was to be adjudged, is apparently wrong. The petitioners possessed a qualification equivalent to the Bachelors Degree in Education, therefore, they are entitled to be considered as Senior Teacher under the Rules of 1971. The respondents, therefore, erroneously rejected the candidatures of the petitioners to be considered as such.

I do not find any force in the contention of the respondents that the select list as a consequence to selection proceedings undertaken in pursuant notification dated 19.08.2003 has already expired, therefore, no appointment can be given to the petitioners. From perusal of the call letters, those were sent to the petitioners, it is apparent that in the month of March 2005, the selection proceedings were going on. The petitioners immediately on knowing about the fact that the appointments have already been given to the persons having less merit to them, approached this Court in the month of October 2005. In view of it, it cannot be said that the select list

was not in currency when the petitioners approached this Court.

Accordingly, this petition for writ is allowed. The respondents are directed to consider the candidatures of the petitioners for the purpose of appointment as Senior Teacher in pursuant to the notification dated 19.08.2003 and in the event they are found suitable to be appointed as such and if any person having less in merit than the petitioners is given appointment, appointment be given to the petitioners also. The respondents are directed to make the entire exercise in the terms above within a period of three months from today.

No order as to costs.

(GOVIND MATHUR)J.

Anil/